



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5338

Introduced 2/8/2012, by Rep. Karen May

SYNOPSIS AS INTRODUCED:

10 ILCS 5/9-8.6

Amends the Election Code. Removes language providing that an independent expenditure made in connection, consultation, or concert with a public official or candidate shall be considered a contribution. Provides that an expenditure is independent of a candidate or political committee if and only if it meets certain conditions. Provides that any person other than a natural person or political committee who makes an independent expenditure supporting or opposing a public official or candidate that, alone or in combination with any other independent expenditure made by the person supporting or opposing that public official or candidate during any 12-month period, equals an aggregate value of at least \$3,000 shall file a written disclosure with the State Board of Elections within 2 business days of meeting or exceeding the \$3,000 threshold. Provides that a natural person, or any person other than a natural person or political committee, who makes a written disclosure with the Board shall have a continuing obligation to report further expenditures in \$1,000 increments. Removes language providing that any entity other than a natural person that makes expenditures in an aggregate amount exceeding \$3,000 during any 12-month period supporting or opposing a public official or candidate must organize as a political committee. Provides that the Board may impose a fine for violations of the provisions concerning independent expenditures.

LRB097 18859 PJG 64097 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing Section
5 9-8.6 as follows:

6 (10 ILCS 5/9-8.6)

7 Sec. 9-8.6. Independent expenditures.

8 (a) An expenditure that leads to, or creates the appearance
9 of, quid pro quo corruption shall not be considered an
10 independent expenditure. An independent expenditure in
11 relation to a candidate or ballot initiative is not considered
12 a contribution to a political committee affiliated with that
13 candidate or ballot initiative. ~~An expenditure made by a~~
14 ~~natural person or political committee for an electioneering~~
15 ~~communication in connection, consultation, or concert with or~~
16 ~~at the request or suggestion of the public official or~~
17 ~~candidate, the public official's or candidate's candidate~~
18 ~~political committee, or the agent or agents of the public~~
19 ~~official, candidate, or political committee or campaign shall~~
20 ~~not be considered an independent expenditure but rather shall~~
21 ~~be considered a contribution to the public official's or~~
22 ~~candidate's candidate political committee.~~ An expenditure is
23 independent of a candidate or political committee if and only

1 if: (i) it is made without connection, consultation, or concert
2 with a candidate or political committee; (ii) the person or
3 entity making the expenditure did not communicate its plans or
4 intentions for the expenditure in any way which a candidate or
5 political committee might reasonably be expected to discover;
6 (iii) in the case of an expenditure relating to a candidate for
7 public office, neither the candidate nor any representative of
8 the candidate appeared at any event or in any fundraising
9 activity sponsored by or on behalf of the person or entity
10 making the expenditure in the period since the last election of
11 that candidate; and (iv) in the case of an expenditure relating
12 to a candidate for public office, neither the person making the
13 expenditure, nor any employee or agent of, or consultant to,
14 the person or entity making the expenditure worked in any
15 capacity for the candidate or his or her political committee
16 during the period since the last election of that candidate.

17 (a-5) A natural person who makes an independent expenditure
18 supporting or opposing a public official or candidate that,
19 alone or in combination with any other independent expenditure
20 made by that natural person supporting or opposing that public
21 official or candidate during any 12-month period, equals an
22 aggregate value of at least \$3,000 must file a written
23 disclosure with the State Board of Elections within 2 business
24 days after making any expenditure that results in the natural
25 person meeting or exceeding the \$3,000 threshold. A natural
26 person who has made a written disclosure with the State Board

1 of Elections shall have a continuing obligation to report
2 further expenditures in relation to the same election, in
3 \$1,000 increments, to the State Board until the conclusion of
4 that election. Each disclosure must identify the natural
5 person, the public official or candidate supported or opposed,
6 the date, amount, and nature of each independent expenditure,
7 and the natural person's occupation and employer.

8 Any person other than a natural person or political
9 committee who makes an independent expenditure supporting or
10 opposing a public official or candidate that, alone or in
11 combination with any other independent expenditure made by the
12 person supporting or opposing that public official or candidate
13 during any 12-month period, equals an aggregate value of at
14 least \$3,000 shall file a written disclosure with the State
15 Board of Elections within 2 business days of meeting or
16 exceeding the \$3,000 threshold. The written disclosure shall
17 include the gross receipts of the person making the independent
18 expenditure, the name of any person or entity responsible for
19 20% or more of the gross receipts, and the dollar amount for
20 which that person or entity is responsible. A person other than
21 a natural person or a political committee who has made a
22 written disclosure with the State Board of Elections shall have
23 a continuing obligation to report further expenditures in
24 relation to the same election, in \$1,000 increments, to the
25 State Board until the conclusion of that election. Each
26 disclosure must identify the person making the expenditure, the

1 public official or candidate supported or opposed, and the
2 date, amount, and nature of each independent expenditure. A
3 person other than a natural person or political committee shall
4 also report any receipt that, alone or in aggregate together
5 with other receipts from the same source in the preceding 12
6 months, exceeds 20% of their gross receipts as of the day that
7 they began to engage in independent expenditures; provided that
8 this obligation to report receipts shall end on the day of the
9 next election for persons other than a natural person or a
10 political committee who cease engaging in independent
11 expenditures.

12 (b) Any person other than a natural person or a political
13 committee who makes one or more independent expenditures for a
14 communication with an aggregate value of at least \$3,000 shall
15 include within the communication the names of any person or
16 entity responsible for 20% or more of the gross receipts or
17 revenues of the person making the independent expenditure in
18 the preceding 12 months. Any entity other than a natural person
19 that makes expenditures of any kind in an aggregate amount
20 exceeding \$3,000 during any 12-month period supporting or
21 opposing a public official or candidate must organize as a
22 political committee in accordance with this Article.

23 (c) Every political committee that makes independent
24 expenditures must report all such independent expenditures as
25 required under Section 9-10 of this Article.

26 (d) In addition to any other remedies provided for by this

1 Article, the Board may impose a fine for violations of this
2 Section not to exceed 100% of the total amount of the
3 expenditures that were untimely reported, or the Board may, in
4 its discretion, waive the fine. When considering whether to
5 impose a fine and the amount of the fine, the Board shall
6 consider the following factors: (i) whether the person made an
7 attempt to disclose the contribution and any attempts made to
8 correct the violation, (ii) whether the violation is attributed
9 to a clerical or computer error, (iii) the amount of the
10 expenditure, (iv) the number of days the expenditure was
11 reported late, and (v) past violations of this Section and
12 Section 9-3 by the person.

13 (Source: P.A. 96-832, eff. 7-1-10.)